

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Masahiko Kadokura
Appln. No. : 10/554,458
Filed : October 24, 2005
Title : Ultrasonic Probe

Conf. No. : 9033
TC/A.U. : 3768
Examiner : Sanjay Cattungal

Customer No. : 52054
Docket No. : NIHE-38852

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request review of the final rejection in the above-identified application pursuant to 1296 Off. Gaz. Pat. Office 67 (July 12, 2005) and 1303 Off. Gaz. Pat. Office 21 (February 7, 2006).

No amendments are being filed with this request.

This request is being filed with a Notice of Appeal pursuant to 37 CFR § 41.31(a)(1), accompanied by the requisite fee of \$540.00 under 37 CFR § 41.20(b)(1).

The review is requested for the reasons stated on the following sheets.

REASONS FOR REQUEST

1. Background

Claims 1-3, and 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Okawa (U.S. 6,569,100) in view of Morley (U.S. 6,840,938) and Warner (U.S. 5,938,551). Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Okawa in view of Morley and Warner and further in view of Taylor (U.S. 6,709,397).

2. Omissions of Elements Needed for a *Prima Facie* Rejection

Claim 5 recites “a sliding mechanism for sliding said middle pulley in a direction parallel to a longitudinal axis of the swinging shaft.” Claim 6 recites “a sliding mechanism for sliding said middle pulley in a direction parallel to the swinging shaft.” The Examiner does not allege that Okawa or Morley teach the above cited structure of claims 5 and 6. Instead, the Examiner relies on Warner to teach the above cited structure.

In distinction, Warner teaches a first pulley system 56, and a second pulley system 66 with a variable tension apparatus 74. The second pulley system includes a slave pulley 68 attached to an output shaft, axle 248 (shown in Fig. 8). Assuming, *arguendo*, that the slave pulley 68 is equivalent to the claimed “second pulley”, then the axle 248 that rotatably protrudes from the slave pulley 68 defines a longitudinal axis. This longitudinal axis is perpendicular to the sliding direction of the tensioner pulleys 94, 96 (shown as Ds in Fig. 3 below). As shown in Fig. 3 below, the tensioner pulleys 94, 96 slide left and right while the axle 248 defining the longitudinal axis clearly extends in a perpendicular direction (into and out of the page). This contrasts claims 5 and 6, as claim 5 states “a sliding mechanism for sliding said middle pulley in a direction parallel to a

longitudinal axis of the swinging shaft” while claim 6 states “a sliding mechanism for sliding said middle pulley in a direction parallel to the swinging shaft.” Emphasis added. As such, Warner fails to teach the above cited structure of claims 5 and 6. Because Warner does not teach the above-cited feature, the rejection fails to make a *prima facie* case of obviousness.

U.S. Patent

AUG. 17, 1999

Sheet 3 of 16

5,938,551

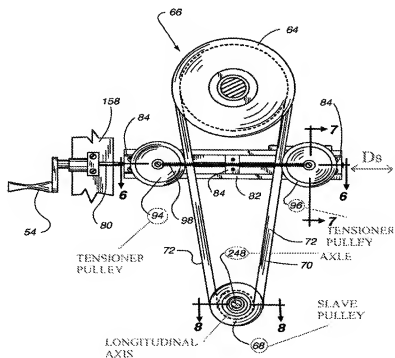
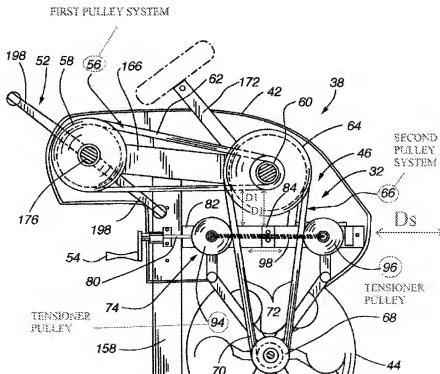


Fig. 3

Claim 1 recites “a sliding mechanism for supporting said middle pulley in such a manner that said middle pulley is slidable in a direction toward and away from said first pulley.” The Examiner concedes that Okawa and Morley fail to teach the above cited structure. Thus, the Examiner relies on Warner.

In distinction, Warner teaches two pulley systems, a first pulley system 56, and a second pulley system 66 with the variable tension apparatus 74 adjusting the tension of the second pulley system 66. The tensioner pulleys 94, 96, alleged to be equivalent to the claimed middle pulley, move laterally relative to the first pulley at all times, due to being fixed to a slide rack 82. As shown in Fig. 2 below, the pulleys 94, 96 move toward and away from each other, but stay the same distance from the first pulley 82. Thus, in one position, the tensioner pulley will be a distance, D1, away from the first pulley while in a second position, the tensioner pulley will be the same distance, D1, away from the first pulley. As such, Warner fails to teach the above cited structure of claim 1. Because Warner does not teach the above-cited feature, the rejection fails to make a *prima facie* case of obviousness.



Claims 2-4 depend from independent claim 1 that is believed to be in condition for allowance as set forth above. Claim 7 depends from independent claim 6 that is believed to be in condition for allowance as set forth above. Accordingly, applicants respectfully request withdrawal of the corresponding rejection of claims 2-4 and 7 as depending directly or indirectly from allowable claims 1 and 7, respectively.

3. Conclusion

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested.

If there are any additional fees resulting from this communication, please charge the same to our Deposit Account No. 16-0820, our Order No. NIHE-38852.

Respectfully submitted,
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